

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF)
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CITY OF TUSCALOOSA)
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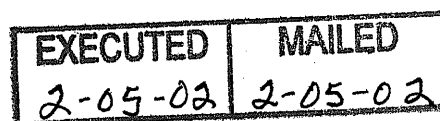
NPDES PERMIT NO. AL0022713)
_____)

CONSENT ORDER
NO. 02-092-CWP

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-16, as amended, the Alabama Water Pollution Control Act, Code of Alabama 1975, §§ 22-22-1 through 22-22-14, as amended, the ADEM Administrative Code of Regulations ("ADEM Admin. Code R.") promulgated pursuant thereto, and the National Pollutant Discharge Elimination System administered by the Alabama Department of Environmental Management (hereinafter "the Department") and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342 the Department makes the following FINDINGS:

1. The City of Tuscaloosa (hereinafter "the Permittee") operates a waste treatment facility known as the Tuscaloosa Wastewater Treatment Plant, which discharges pollutants from a point source into the Black Warrior River, a water of the State.



2. The Alabama Department of Environmental Management (the Department) is a duly constituted department of the State of Alabama pursuant to §§ 22-22A-1 through 22-22A-16, Code of Alabama 1975, as amended.

3. Pursuant to § 22-22A-4(n), Code of Alabama 1975, the Department is the state water pollution control agency for the purposes of the Federal Clean Water Act, 33 U.S.C. §§ 1251 through 1387. In addition, the Department is authorized to administer and enforce the provisions of the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code of Alabama 1975, as amended.

4. The Department issued the Permittee's NPDES Permit Number AL0022713 (hereinafter "the Permit") which established limitations on the discharge of pollutants from such point source, designated therein as outfall number 001, into the Black Warrior River. The Permit requires that the Permittee monitor its discharges and submit periodic Discharge Monitoring Reports to the Department describing the results of its monitoring. The Permit also requires that the Permittee maintain in good working order all systems used by the Permittee to achieve compliance with the terms and conditions of the Permit.

5. Discharge Monitoring Reports submitted to the Department by the Permittee for the month(s) January 2001 through August 2001 indicated that the Permittee has discharged pollutants (Total Residual Chlorine) from such point source into the Black Warrior River in violation of the limitations established in NPDES Permit Number AL0022713.

6. That, pursuant to a Consent Decree in Civil Action No. CV-99-1254, the City of Tuscaloosa has agreed to Supplemental Environmental Projects, which include the installation of an effluent ultraviolet disinfection system. Said system will replace the use of chlorine disinfection system and eliminate violations of the use of the total residual chlorine limits in NPDES permit No. AL0022713. Said Consent Decree mandates that the City submit a technical memorandum to the Department by January 31, 2002 and complete the ultraviolet system by September 1, 2003.

ORDER

Based upon the foregoing FINDINGS and pursuant to Code of Alabama (1975), §§ 22-22A-5(10), 22-22A-5(12), 22-22A-5(18), 22-22-9(i), and 22-22-9(k), as amended, and the National Pollutant Discharge Elimination System administered by the Department and approved by the Administrator of the U.S. Environmental Protection Agency pursuant to the Federal Water Pollution Control Act § 402, 33 U.S.C. § 1342, it is hereby Ordered:

A. That, commencing immediately after receiving notice of this Order, the Permittee shall not discharge pollutants from the above-mentioned point source (outfall number 001) at the Tuscaloosa Wastewater Treatment Plant into the Black Warrior River in excess of 1.0 mg/l of Total Residual Chlorine.

B. That the Permittee shall pay a stipulated penalty of \$500 per violation of a monthly or weekly average limitation, a daily maximum limitation for pollutants discharged to the Black Warrior River which exceed the interim limits established in this Order except for upsets which have been properly documented and substantiated as required by Part II.,C.,2 of the Permit. Any penalty shall be submitted monthly, with the Permittee's DMR.

C. That by December 1, 2003, the City shall complete the ultraviolet disinfection project, and shall have a substantially complete and operational ultraviolet disinfection system at the wastewater treatment plant.

D. That the Permittee shall pay to the Department, upon demand, stipulated penalties for each day it fails to meet any of the milestones established in this Consent Order. The stipulated penalties for failure to meet each milestone date or any requirement date shall be as follows:

<u>Period of Noncompliance</u>	<u>Penalty per Day per Violation</u>
1st to 30th day	\$100
31st to 60th day	\$200
61 st to 90th day	\$300

If, after 90 days, the Permittee has yet to meet one or more milestone date set in this Consent Order, the Department may, at its discretion, proceed either to a unilateral order revoking this Consent Order imposing additional fines, or may proceed directly to litigation to seek additional fines and/or injunctive relief.

E. That this Consent Order shall apply to and be binding upon both parties, their directors, officers, and all persons or entities acting under or for them. Each signatory to this Consent Order certifies that he or she is fully authorized by the party he or she represents to enter into the terms and conditions of this Consent Order, to execute the Consent Order on behalf of the party represented and to legally bind such party.

F. That, subject to the terms of these presents and subject to provisions otherwise provided by statute, this Consent Order is intended to operate as a full resolution of the violations which are cited in this Consent Order.

G. That the Permittee is not relieved from any liability if it fails to comply with any provision of this Consent Order.

H. That, for purposes of this Consent Order only, the Permittee agrees that the Department may properly bring an action to compel compliance with the terms and conditions contained herein in a court of competent jurisdiction, including, but not limited to, Montgomery County Circuit Court. The Permittee also agrees that in any action brought by the Department to compel compliance with the terms of this Agreement, the Permittee shall be limited to the defenses of Force Majeure, compliance with this Agreement, and physical impossibility.

I. That "Force Majeure" for the purposes of this Consent Order is defined as an event arising from causes beyond the reasonable control of the Permittee or any entity employed by the Permittee, including its consultants and contractors, which

delays or prevents the performance of any obligation under this Consent Order.

J. That this Consent Order does not preclude the Department from taking other enforcement actions based on these facts regarding violations of other regulatory programs. Should additional facts and circumstances be discovered in the future concerning the Permittee which would constitute possible violations not addressed in this Consent Order, or if the violations noted herein continue, then such future violations shall be addressed in Orders as may be issued by the Director, litigation initiated by the Department, or such other enforcement action as may be appropriate, and the Permittee shall not object to the future orders, litigation or enforcement action based on the issuance of this Consent Order.

K. It is the express purpose of the parties entering into this Consent Order to further the objectives set forth in the Alabama Water Pollution Control Act, §§ 22-22-1 through 22-22-14, Code Of Alabama 1975, as amended, and the Clean Water Act. In light of these objectives, the Permittee agrees to, inter alia, cause the expeditious implementation of the remedial measures as herein set forth and in accordance with the schedules approved by the Alabama Department of Environmental Management, take all steps necessary to: (1) achieve full compliance with its NPDES permit, (2) achieve full compliance with the Alabama Water Pollution Control Act, and (3) comply with all other conditions of this Consent Order.

L. That, by agreement of the parties, this Consent Order shall be considered final and effective immediately upon signature of all parties. This Consent Order shall

not be appealable, and the Respondent hereby waives any hearing on the terms and conditions of same.

CITY OF TUSCALOOSA

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

By:

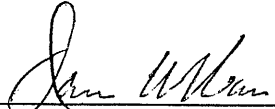


Alvin D. DuPort

Its:

Mayor

Date: 1-25-02



James W. Warr

Director

Date: 5 Feb 2002